

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

JAMES E. BAILEY,

Plaintiff,

v.

BRYAN COLLIER, et al.,

Defendants.

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Case No. 6:22-cv-007-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff James E. Bailey, an inmate of the Texas Department of Criminal Justice proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

In lieu of paying the \$402 filing fee for this case, Plaintiff filed an application to proceed *in forma pauperis*. Docket No. 2. On January 12, 2022, Judge Love issued a Report observing that Plaintiff's submission established that he did not qualify to proceed *in forma pauperis* because he had sufficient funds to pay the fee. Docket No. 4. Accordingly, Judge Love recommended that Plaintiff be denied leave to proceed without prepayment and that this case be dismissed for nonpayment unless Plaintiff paid the filing fee within thirty days. *Id.* A copy of this Report was mailed to Plaintiff, who received it on January 19, 2022. Docket No. 5. Plaintiff has not paid the fee or filed written objections to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent

assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 4) as the findings of this Court. It is therefore **ORDERED** that Plaintiff's application to proceed *in forma pauperis* (Docket No. 2) is **DENIED** and this case is **DISMISSED** without prejudice for failure to pay the filing fee necessary to prosecute this case. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **23rd** day of **February, 2022**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE